

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTIONS 4.1, 4.2 AND 12.3 OF THE CITY OF KALAMAZOO ZONING ORDINANCE REGARDING THE LOCATION OF MEDICAL MARIHUANA FACILITIES

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Section 4.1, Use Table, of the City of Kalamazoo Zoning Ordinance, being Appendix A to the Kalamazoo City Code is amended to add the following types of Marihuana Facilities, per the Medical Marihuana Facilities Licensing Act (Act 281 of 2016), as permitted uses in the following zoning districts:

“Grower: For the Class A and Class B designations: Permitted use in the M-1, Manufacturing – Limited District and M-2, Manufacturing – General District. The Class C designation is a permitted use in the M-2, Manufacturing – General District.

Processor: Permitted use in the M-1, Manufacturing – Limited District and M-2, Manufacturing – General District.

Secure Transporter: Permitted use in the CC, Commercial – Community District, M-1, Manufacturing – Limited District and M-2, Manufacturing – General District.

Safety Compliance Facility: Permitted use in the CC, Commercial – Community District; M-1, Manufacturing – Limited District, and M-2, Manufacturing – General District.

Provisioning Center: Permitted use in the CC, Commercial – Community District.”

Section 2. Section 4.2, Use Specific Standards, of the City of Kalamazoo Zoning Ordinance, being Appendix A to the Kalamazoo City Code, is amended to add the following regulations for marihuana facilities:

“AA. Marihuana Facilities:

1. Applicable Standards for Grower facilities:
 - a) Only one Medical Marihuana Grower facility license permitted per parcel or lot.
 - b) Class C Grower facilities only allowed in Zone M-2.
 - c) All Grower facilities and operations must be within an enclosed building.
 - d) A licensee may occupy the same premises if holding a Grower and Processor license for the premises.
 - e) Any building or unit housing medical marihuana operations shall located at least five hundred (500) feet from a residential zone district.

2. Applicable Standards for Processor facilities:
 - a) Only one Medical Marihuana Processor facility license permitted per parcel or lot
 - b) All Processing operations must be conducted within an enclosed building
 - c) A licensee may occupy the same premises if holding a Grower and Processor license for the premises.
 - d) Any building or unit housing medical marihuana operations shall be located at least five hundred (500) feet from a residential zone district.

3. Applicable Standards for Secure Transporter:
 - a) Secure Transporter facilities located in Zone CC are limited to a gross floor area of less than 3,500 square feet.
 - b) Secure Transporter facilities located in Zone CC are only permitted warehousing activity as an accessory to the principal permitted Secure Transporter use.
 - c) A separation distance of five hundred (500) feet is required from other licensed marihuana facilities in a CC Zone.

4. Applicable Standards for Safety Compliance:
 - a) Safety Compliance facilities located in Zone CC are limited to a gross floor area of less than 3,500 square feet.
 - b) All testing must be conducted within an enclosed building.
 - c) A separation distance of five hundred (500) feet is required from other licensed marihuana facilities in a CC Zone.

5. Applicable Standards for Provisioning Centers:
 - a) Only one Provisioning Center license per parcel or lot.
 - b) All Provisioning Center activities must be conducted within an enclosed building.
 - c) A Provisioning Center is not allowed within six hundred sixty (660) feet of the following designated nodes: The intersection of E. Cork St. and S. Burdick St., the intersection of E. Cork St. and Portage St., and the intersection of W. Ransom St. and N. Westledge Ave.
 - d) A separation distance of five hundred (500) feet is required from any other licensed medical marijuana facilities.
 - e) A Medical Cannabis Dispensary is subject to the same standards required of Provisioning Centers.

6. General Provisions
 - a) The location criteria contained in this Section is applicable to any proposed change in the location of an existing marihuana facility.
 - b) A licensee shall not operate a marihuana facility at any place in the City other than the address provided in the application on file with the City Clerk.
 - c) A licensee shall operate the licensed facility in compliance with all

- applicable State and City regulations for that type of facility.
- d) A licensee shall not operate a marihuana facility within one thousand (1,000) feet of:
 - 1) any private or public preschool, elementary, secondary, vocational or trade school, college or university;
 - 2) any park or playground;
 - 3) any public library or private library open to the public; or
 - 3) a housing facility owned by a public housing authority.
 - e) A licensee shall not operate a marihuana facility within five hundred (500) feet of:
 - 1) any existing licensed child care center,
 - 2) any existing place of worship or religious assembly,
 - 3) any public pool or recreation facility,
 - 4) any public or private youth center, or
 - 5) any juvenile or adult halfway house, correctional facility or substance abuse rehabilitation or treatment center.
 - f) The distances described in this Section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in this Section above to the nearest portion of the building or unit in which the medical marihuana facility is located.
 - g) A licensee shall not operate a marihuana facility within the boundaries of any residential zoning district or in a residential unit.
 - h) The separation distances contained in this Section are applicable to marihuana facilities and protected uses located in adjacent governmental jurisdictions.
 - i) It shall be unlawful to operate a medical marihuana business or to grow medical marihuana outside of an enclosed building. All medical marihuana commercial entity licenses shall be issued for a specific fixed location within an enclosed building. A medical marihuana commercial entity license may be issued only if the business qualifies as a use permitted as a matter of right in the zoning district where it is proposed to be located.
 - j) The provisions of this Section shall be applicable to all persons and facilities described herein, whether the operations or activities associated with a marihuana facility were established without authorization before the effective date of this ordinance.
 - k) Any marihuana facility in operation on the effective date of this ordinance is deemed an unlawful public nuisance. Such operation shall obtain the appropriate licensure under the Medical Marihuana Facilities Licensing Act, MCL 333.27101 *et seq.* and City ordinances within 270 days after the effective date of this ordinance or cease operations. Noncompliance with this provision shall subject the owner and/or operator of the facility to applicable criminal and civil sanctions brought by the City Attorney for violation of this provision.
 - l) Nothing in this ordinance shall be construed to “grandfather” or provide any legal, equitable, or property right to the owner or occupier of property on which a medical marihuana facility is operating, before a City operating license for such facility or business is issued, to continue such use.”

Section 3. Section 12.3, Definitions and Use Categories, of the City of Kalamazoo Zoning Ordinance, being Appendix A to the Kalamazoo City Code, is amended to add the following terms and definitions:

“MARIHUANA or MARIJUANA – Means that term as defined in the Public Health Code, MCL 333.1101 et seq.; the Michigan Medical Marihuana Act, MCL 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq.; and the Marihuana Tracking Act, MCL 333.27901 et seq.

MARIHUANA FACILITY: Means an enterprise at a specific location at which a licensee is licensed to operate under the Medical Marihuana Facilities Act, MCL 333.27101 et seq., including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana safety compliance facility. The term does not include or apply to a “primary caregiver” or “caregiver” as that term is defined in the Michigan Marihuana Act, MCL 333.26421 et seq.

- a) GROWER – Means a licensee that is a commercial entity located in this state that cultivates, dries, trims or cures and packages marijuana for sale to a processor or provisioning center.
 - 1. Class A: A licensed grower who is authorized to grow not more than 500 marihuana plants.
 - 2. Class B: A licensed grower who is authorized to grow not more than 1,000 marihuana plants.
 - 3. Class C: A licensed grower who is authorized to grow not more than 1,500 marihuana plants.

- b) PROCESSOR – Means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center

- c) PROVISIONING CENTER – Means a licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients’ registered primary caregivers. Provisioning Center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.

- d) SAFETY COMPLIANCE FACILITY – Means a licensee that is a commercial entity that receives marihuana from a marihuana facility or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other

cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

- e) SECURE TRANSPORTER – Means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.
- f) MEDICAL CANNABIS DISPENSARY: Means a provisioning center operated and whose license to operate is held solely by one or more registered qualifying patients and/or registered primary caregivers operating at a fixed location.”

Section 4. Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are repealed.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity and enforceability of the remaining portions of this ordinance.

Section 6. Effective Date. The provisions of this ordinance shall become effective November 15, 2017 and only if an ordinance is adopted by the City Commission amending the Kalamazoo City Code to permit the location and licensure of medical marihuana facilities in the City.

CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on _____, 2017. Public notice was given and the meeting was conducted in full compliance with the Open Meetings Act, (PA 267, 1976, M.C.L. § 15.261 et. seq). Minutes of the meeting will be available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Mayor and City Clerk as required by the Charter of said City.

Bobby Hopewell, Mayor

Scott Borling, City Clerk